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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 SHANE LAFFERTY, a single person, )

10 Plaintiff, )

11 v. )

12 CHRISTOPHER LIU, Director of the )  
13 Department of Enterprise Services of the )  
14 State of Washington in his official capacity )  
15 as Director of the Department of Enterprise )  
16 Services and in his individual capacity, et )  
17 al., )

18 Defendants. )

CASE NO. C17-0749RSM

ORDER GRANTING IN PART MOTION  
TO COMPEL AND AWARDING FEES

19 This matter comes before the Court on Defendant David Heenan's Motion to Compel.  
20 Dkt. #21. Defendant acknowledges in his Reply that Plaintiff Shane Lafferty has provided  
21 essentially all of the requested discovery in response to this Motion. Dkt. #26. Defendant now  
22 seeks only attorneys' fees associated with bringing this Motion and "respectfully asks the Court,  
23 in its Order, to permit either of the parties or counsel obtain Plaintiff's Skagit County Jail records,  
24 including but not limited to records of medical care he received in custody, from the date of his  
25 arrest (October 23, 2016) to present" pursuant to RCW 70.48.100(2)(c). *Id.* at 6.

26 Rule 37 provides that if a motion to compel is granted or disclosure or discovery is  
27 provided after filing, "the court must, after giving an opportunity to be heard, require the party  
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1 or deponent whose conduct necessitated the motion, the party or attorney advising that conduct,  
2 or both to pay the movant's reasonable expenses incurred in making the motion, including  
3 attorney's fees." Rule 37(a)(5)(A). However, a court must not order this payment if: ". . .the  
4 opposing party's nondisclosure, response, or objection was substantially justified; or other  
5 circumstances make an award of expenses unjust." Fed. R. Civ. P. 37(a)(5)(A)(ii)–(iii).  
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7 District courts have broad discretion to determine the reasonableness of fees. *Gates v.*  
8 *Deukmejian*, 987 F.2d 1392, 1398 (9th Cir. 1992). To make this determination, courts determine  
9 the "lodestar amount," which is calculated by multiplying the number of hours reasonably  
10 expended by a reasonable hourly rate. *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 978 (9th  
11 Cir. 2008). The lodestar figure is presumptively a reasonable fee award. *Id.* at 977. The court  
12 may adjust the lodestar figure up or down based upon the factors listed in *Kerr v. Screen Extras*  
13 *Guild, Inc.*, 526 F.2d 67, 70 (9th Cir.1975). The court need not consider the *Kerr* factors,  
14 however, unless necessary to support the reasonableness of the fee award. *Cairns v. Franklin*  
15 *Mint Co.*, 292 F.3d 1139, 1158 (9th Cir. 2002).  
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17 The Court finds that the granting of reasonable expenses incurred in making this Motion  
18 is warranted. The Court agrees with Defendant that Plaintiff's counsel's difficulty in contacting  
19 his client, *see* Dkt. #25 at 8–11, does not excuse his repeated failure to respond to Defendant's  
20 inquiries. Plaintiff has presented no other circumstances that would make an award unjust.  
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22 The Court has reviewed Defendant's request for attorneys' fees and supporting  
23 documentation. Plaintiff has also had an opportunity to review this request and challenge the  
24 amount, but has failed to do so. The requested rate of \$165 per hour is reasonable given the  
25 Court's experience of comparable rates for this kind of legal work. However, Defendant's  
26 counsel's billing entries include activities beyond the scope awardable under Rule 37(a)(5)(A).  
27 The Court will only award fees associated with reasonable expenses incurred in researching and  
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1 drafting the instant Motion and supporting declarations. The Court will not award fees for block-  
2 billed entries. *See Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 948 (9th Cir. 2007). Given all of  
3 this, the Court has determined that the relevant billing entries total 12.8 hours at a rate of \$165  
4 per hour. This totals \$2,112 in fees. The Court will not award an estimated amount of time for  
5 drafting Defendant's Reply brief, because this request is unsupported by evidence, and because  
6 the scope of the Reply was significantly limited by the production of the requested discovery.  
7 Accordingly, the Court will not add to this amount.  
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9 Although Defendant requests that this case be stayed until such time as this award is paid,  
10 *see* Dkt. #21 at 12, Defendant cites no authority for this request and the Court finds that it is not  
11 warranted under the circumstances of this case.  
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13 Accordingly, having considered the relevant briefing, supporting declarations, and the  
14 remainder of the record, the Court hereby finds and ORDERS:

- 15 1) Defendant David Heenan's Motion to Compel, Dkt. #21, is GRANTED.  
16 2) Plaintiff Lafferty shall pay Defendant Heenan \$2,112 in attorney's fees within thirty  
17 (30) days of this Order.  
18 3) Plaintiff Lafferty's records from the Skagit County Jail from the date of his arrest  
19 (October 23, 2016) to the present, including medical records for treatment received  
20 therein, shall be produced to Defendant Heenan's attorneys in accordance with RCW  
21 70.48.100(2)(c).  
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23 DATED this 26 day of March, 2018.  
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27 RICARDO S. MARTINEZ  
28 CHIEF UNITED STATES DISTRICT JUDGE